IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

TUESDAY, THE 14TH NOVEMBER 2006 / 23RD KARTHIKA 1928

WP(C).No. 30004 of 2006(V)

OS.94/2002 of ADL.SUB COURT, THALASSERY

.....

PETITIONER:

M.C. GEETHA, W/O. RAVINDRAN,
`SANGEETH', PALLIKKUNNU AMSOM DESOM,
KANNUR TALUK.

BY ADV. SRI.V.R.KESAVA KAIMAL
SRI.N.M.MADHU

RESPONDENTS:

PUTHIYAVALAPPIL CHOYIN BHAGYA SOBHANA
D/O.SARADA, `SREE', CHALAD-KANNUR.

BY //

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.SASIDHARAN NAMBIAR,J.

W.P.(C) .NO. 30004 OF 2006

Dated 14th November 2006

JUDGMENT

Petitioner is third defendant in O.S.94/02 on the file of Additional Sub court, Thalassery. Respondent is plaintiff. Petitioner is challenging Ext.P9 order passed by learned Munsiff dismissing Ext.P6 application filed under Rule 120 of Civil Rules of Practice to call for the register maintained at Sub Registrar Office, Kannur containing thumb impression and signature of testator of the will dated 15.1.1954. Case of petitioner is that Ext.P6 application was dismissed on the sole ground that the case is included in the list and petitioner had earlier filed Ext.P3 application for a direction to plaintiff to produce original Codicil executed by deceased Anandan and petitioner was not aware of production of the Codicil till Ext.P4 proof affidavit was filed and in such circumstance petitioner could not take steps earlier and this was not appreciated by court below and under Ext.P9 order petition was dismissed.

2. On hearing learned counsel appearing for petitioner it is clear that learned Sub Judge has not considered Ext.P6 application on merits and it was dismissed only on the ground of delay. If the petitioner files an application before court below to review Ext.P6 order, learned Sub Jude may pass appropriate order in accordance with law, on merits as the petition was not disposed on merits and the learned Sub Judge did not consider the question whether the documents sought to be produced is necessary for a just decision of the case.

Petition is disposed of accordingly.

M.SASIDHARAN NAMBIAR,
JUDGE.

uj.